

## **I. Restriction Requirement**

The Examiner has required restriction to one of the following inventions:

Group I: Claims 1-24, drawn to a product; and

Group II: Claim 26, drawn to a method of cleansing skin and/or hair.

Applicants elect, with traverse, Group I, claims 1-24. The Examiner's restriction requirement is traversed for the following reasons.

The Examiner takes the position that Inventions I and II are “not so linked as to form a single general inventive concept under PCT Rule 13.1.” Specifically, the Examiner states that Group I and II are related as product and method of cleansing skin and/or hair using the product. Applicants respectfully submit that the examiner has raised lack of unity of invention on the basis of a narrow, literal and academic approach. As the Examiner is well aware, if there is a single general inventive concept that appears novel and involves inventive step, there is unity of invention and an objection of lack of unity does not arise. See M.P.E.P. 1850 11, page 1800-96. Here, claim 26, i.e., Group II, relates to a method of cleansing skin and/or hair comprising contacting human skin or hair with a product of claim 1. Accordingly, there is a single general inventive concept, i.e., the product of claim 1. Also, Applicants respectfully submit that the Examiner has failed to set forth evidence of a serious search and examination burden if restriction were not required as a search for a product and process of using that same product would not constitute a serious search and examination burden. Accordingly, Applicants respectfully request withdrawal of the restriction requirement.

## **II. Election of Species Requirement**

The Examiner has also set forth an Election of Species requirement, requiring Applicant “to elect a single disclosed combination of elements for the product”, selected from the list below:

- A) the wax component in the wax phase (claims 1-24 and 26);
- B) the mono-, di-, or triglycerides in the wax phase (claims 4-8);
- C) the fatty alcohols in the wax phase (claims 9-11);
- D) the fatty acids in the wax phase (claims 12-14);
- E) the at least one active ingredient (claims 15-18);

- F) the at least one oil (claims 15 and 16);
- G) the at least one emulsifier (claims 15 and 16);
- H) the further waxy components (claims 15 and 16); and
- I) the additional components as described in claims 19 and 20.

The Examiner also requires further election of a “single exact choice” for the wax component in the wax phase listed in claim 1, for the active substance listed in claim 18, and for the additional component listed in claims 19 and 20.

Applicants respectfully traverse these requirements. As discussed in MPEP §1850 III, B, the requirement of technical interrelationship defined in PCT Rule 13.2 shall be considered to be met with the alternatives are of a similar nature as described in Rule 13.2. Here, each of the alternatives in which the Examiner is requiring election are of a similar nature, by exhibiting a common property or activity, by having a common structure, and/or because the alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

However, to be responsive, Applicants elect, with traverse, dialkyl(ene) ethers as the wax component, triglycerides in the wax phase, C<sub>12</sub>-C<sub>50</sub> fatty alcohols as the fatty alcohols, C<sub>14</sub>-C<sub>40</sub> fatty acids as the fatty acid, anti-microbials as the active ingredient, vegetable oil as the oil, nonionic emulsifier as the emulsifier, dialkyl(ene)carbonates as the further waxy component, moisturizer as the additional component in claim 19 and thickener as the additional component in claim 20.

### **III. Conclusion**

For the reasons set forth above, Applicants respectfully request withdrawal of all election requirements. If the Examiner feels that a discussion with Applicants’ representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants’ representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/J&J2127USNP/JPB. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an

extension is requested and the fee should also be charged to our Deposit Account No. 10-0750/J&J2127USNP/JPB.

Respectfully submitted,

/James P. Barr/

---

James P. Barr  
Reg. No. 32,882  
Attorney for Applicant(s)

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-2826  
DATE: May 22, 2008